

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7919

BILL NUMBER: HB 2055

DATE PREPARED: Jan 23, 1999

BILL AMENDED:

SUBJECT: Tobacco vending machines.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits the sale or distribution of tobacco products through vending and other coin machines. Provides that each violation is a Class A misdemeanor. (Current law provides that each violation is a Class C infraction.) Grants law enforcement officers the authority to seal, remove, impound, or disable a coin machine that is used to distribute or sell tobacco. Requires the department of state revenue to establish a program to compensate vending machine owners and purchase tobacco product vending machines. Makes conforming amendments.

Effective Date: Upon passage; July 1, 1999.

Explanation of State Expenditures: This bill requires purchase of vending machines from owners at 2 ½ times each machine's annual net income. Based on a total net income for vended cigarettes in Indiana of between \$8.3 M and \$17.8 M in 1997, **the estimated total state reimbursement for cigarette machines would range between \$14.8 M and \$31.8 M** (*this estimate relies on 72% of sales occurring from non-spiral glass machines which may be utilized for other products*). This bill appropriates funds from the state General Fund for the purpose of purchasing these machines.

The Department of Revenue (DOR) would be responsible for processing machines purchased, which may include indeterminate transportation and storage costs. Based on annual average sales of \$2,900 per machine, between 2,500 and 5,000 non-spiral glass cigarette machines may be used in the state.

Two factors would affect DOR sales of vending machines: (1) Local sales of these machines would be precluded under the provisions of this bill. and (2) There is a national oversupply of vending machines due to tight vending machine regulation. Although the market value of machines may only be that of scrap, a \$100 per machine value would yield between \$12,000 and \$25,000 to DOR for costs involved in selling machines.

Information regarding calculations in this fiscal note is available upon request to LSA.

Explanation of State Revenues: This bill would eliminate all cigarette tax and sales tax from vended cigarette purchases. This may only minimally reduce revenue if cigarettes are purchased in other places.

Vended cigarette machine tax revenues are estimated at \$1.7 M to \$2.19 M a year.

If all cigarette machines collected were sold for \$100 each, between \$234,000 and \$468,000 could be deposited in the state General Fund. (Sales may be affected by the national oversupply of vending machines.)

This bill increases a Class C infraction offense to a Class A misdemeanor, which may potentially increase revenue to the Common School Fund, may or may not decrease revenue deposited in the state General Fund (a new Class A infraction is also established—\$10,000 maximum fine). Fines from misdemeanors are deposited in the Common School Fund, while infraction judgements are deposited in the state General Fund. Currently, the maximum judgment for a Class C infraction is \$500, while the maximum fine for a Class A misdemeanor is \$5,000. Besides the issuance of fines, the sentencing court may assess a court fee if a guilty verdict is entered. The court fee for an infraction is \$70 while the court fee for a misdemeanor is \$120. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court.

Explanation of Local Expenditures: Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost of housing an offender in jail is reported to be \$44. There is no term of imprisonment for an infraction.

Explanation of Local Revenues: Local governments could receive additional revenues from any court fees that are collected for cases that were infractions and are now misdemeanors. 27% of court fees that are collected are deposited in the county general fund when a guilty verdict is entered for a misdemeanor. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. From city and town courts, the county general fund receives 20% of the court fee while the city or town general fund receives 25%.

State Agencies Affected: Department of Revenue.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Ron Miller, Modern Vending, 298-2955; Survey of Annual Vending Machine Sales, Steve Beebe, Beebe, Scherer & Associates, 916-1250; January 15, 1999 letter from Bill Hurley, National Automatic Merchandising Association regarding “Indiana Cigarette Vending Figures;” *Automated Merchandise Sales, SIC 5962, United States and Indiana, 1992*, U.S. Department of Commerce; 1998 Indiana Tax and Revenue Handbook, LSA; Indiana Sheriffs Association.